IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

J U D G M E N T

State of Rajasthan Vs. Devi Singh & others

S.B.CRIMINAL APPEAL NO.170/1988
against the judgment dt.31.8.1987 passed by
the Sessions Judge, Sirohi,
in Sessions Case No.24/1985

Date of Judgment: July 17, 2007

P R E S E N T

HON'BLE MR.JUSTICE DEO NARAYAN THANVI

Mr.V.R.Mehta, Public Prosecutor.
Mr.Shambhoo Singh, for accused respondents.

BY THE COURT:

1. This appeal is directed against the judgment of acquittal of accused respondents Devi singh, Hak Singh and Ran Singh of the offences u/ss. 447, 323, 325, 307 and 307 read with 34 IPC passed by the learned Sessions Judge, Sirohi, dated 31.8.1987.

2. The charge against the accused respondents was that on 14.4.1985 between 11 to 12 Noon, accused respondents

committed trespass in the field of Kishore Singh and inflicted injuries to Sona, Bhalla & Bhanwar Singh and also inflicted injuries on the head of Kishore Singh with an attempt to commit murder. After investigation, the police filed challan against the accused for the offence u/ss.307, 325, 447 and 307 read with 34 IPC. The case was committed to the court of Sessions for trial. Learned Sessions Judge framed the charges and examined 13 prosecution witnesses. The statements of accused were recorded under Section 313 CrPC. They produced Bhawani Singh (DW 1) in their defence. After hearing the arguments, the learned Sessions Judge was of the opinion that it is a case of free fight and that it is not established as to who inflicted injuries on whose person. Therefore, while giving benefit of doubt, he acquitted all the accused of the offences charged.

3. Learned Public Prosecutor has submitted that the prosecution witnesses are not hostile and the evidence of injuries is supported by the testimony of the doctor but despite that, the learned Sessions Judge has acquitted the accused respondents.

4. I have reappraised the evidence brought on record. It is settled law that in injury cases, the testimony of the injured, if coupled with the medical evidence, is sufficient for the purpose of conviction but the evidence of injured must be trustworthy

and it should reach to no other conclusion except the guilt of the accused. In the present case, if the evidence is read in this light, injured Bhalla (PW 3) has stated in his examination that he was caught hold by Devi Singh and other two accused inflicted injuries but on confrontation with the statement u/s.161 CrPC (Ex.D.4) and F.I.R. (Ex.D.11), he has not named them in his statement. He has stated that accused Hak Singh inflicted injury upon him but he also stated that two days prior to the incident, there was a fight between Hak Singh and him on account of cutting of `Khejri' tree.

5. Injured Sonia (PW 4) has stated that accused Ran Singh inflicted injury on his leg but when he was confronted with the police statement (Ex.D.5), he said that he cannot say as to which accused inflicted injury on him. He also stated that he did not notice any blood stains on the spot.

6. Bhanwar Singh (PW 5) has stated that accused Ran Singh inflicted injury on his head and he was intervened by Ladia and Hakma. Hakma (PW 10) has been declared hostile and Ladia (PW 8) has stated in his cross examination that he did not see any injury on Devi Singh and Hak singh. He has also denied the police statement Ex.D.9 that Ran Singh inflicted injury on the head of Bhanwar Singh.

7. Injured Kishore Singh (PW 6) has also stated that head injury was inflicted by Ran singh and thereafter he became unconscious but in the cross examination, he has stated that accused Devi Singh and Ran Singh, both inflicted injuries on him but there was only one injury on his head and later on, he stated that this injury was inflicted by only Ran Singh.

8. Lachhmi (PW 7) has denied in her cross examination that she gave statement to the police Ex.D.8 about inflicting head injury to Kishore Singh by Devi Singh and Ran Singh. Likewise, Ladia (PW 8) has denied his police statement about inflicting of injury by Devi Singh and Ran Singh in his statement Ex.D.9.

9. Another eye witness Kuiya (PW 9) has also denied his police statement about inflicting injury by Devi Singh and Ran Singh in Ex.D.10.

10. In this way, the evidence of injured and the eye witnesses creates suspicion as to whether injuries were inflicted by accused persons with an intention to cause death of injured Kishore Singh. Learned trial Judge has rightly come to the conclusion that it is a case of free fight and there seems to be no irregularity in his finding regarding giving benefit of doubt to the accused respondents.

11. Consequently, this appeal filed by the State is dismissed and the judgment of acquittal of accused respondents Devi singh, Hak Singh and Ran Singh of the offences u/ss. 447, 323, 325, 307 and 307 read with 34 IPC passed by the learned Sessions Judge, Sirohi, dated 31.8.1987 is maintained.

(DEO NARAYAN THANVI), J.

RANKAWAT JK, PS